

California Stem Cell Project Prevails: Appellate Court Affirms Constitutionality of Proposition 71

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SAN FRANCISCO, February 27, 2007 - For the second time in less than a year, the California judiciary has issued a commanding decision affirming the Constitutionality of the states innovative stem cell research project.

Proposition 71, the California Stem Cell Research and Cures Act, was approved by 7 million voters (59 percent) in November, 2004, and authorized a \$3 billion bond program to fund stem cell research in the state. Since then, litigation challenging the Constitutionality of the Act and the California Institute for Regenerative Medicine (CIRM), the agency created to manage the project, has precluded the issuance of bonds.

The State Court of Appeal ruled unanimously yesterday that:

“...the objective of the proposition is to find, “as speedily as possible,” therapies for the treatment and cure of major diseases and injuries, an aim the legitimacy of which no one disputes. The very pendency of this litigation, however, has interfered with implementation for more than two years. After careful consideration of all of appellants legal objections, we have no hesitation in concluding, in the exercise of “our solemn duty to jealously guard the precious initiative power,” that Proposition 71 suffers from no constitutional or other legal infirmity. Accordingly, we shall affirm the well-reasoned decision of the trial court upholding the validity of the initiative.

Robert N. Klein, chairman of the Independent Citizens Oversight Committee (ICOC), the CIRM's 29-member governing board, said, “Once again, the judiciary has upheld the Constitutionality of Californias innovative stem cell research project in its entirety, without equivocation, and with absolutely no room for further argument. We are grateful that the Court rendered this decision so quickly, as it speeds the day when the will of 7 million voters can be fully realized.”

The Appellate Court heard oral arguments in the case on February 14, 2007. Plaintiffs the California Family Bioethics Council, along with the Peoples Advocate and National Tax Limitation Foundation, represented by the Life Legal Defense Foundation had appealed an Alameda Superior Court decision which also upheld Prop 71. That decision had been rendered last April.

The CIRM and the ICOC were defended by Attorney General Jerry Brown, who said, “This is a bright day for the people of California who want to see stem cell research accelerated. The Court of Appeal gave us a rock solid opinion. This is the end of the road for the obstructionists.”

Despite the litigation, the stem cell research project is moving forward. Last summer, Governor Arnold Schwarzenegger authorized a \$150 million loan from the states general fund to the CIRM, and private philanthropists provided an additional \$45 million in loans. That funding allowed the ICOC to approve 72 grants totaling nearly \$45 million for embryonic stem cell research at 20 California institutions earlier this month. Another \$80 million in grants will be considered by the ICOC on March 15th and 16th, when it meets in Los Angeles. At that point, California will become the worlds leading funder of stem cell research, searching for therapies and cures for Parkinsons, cancer, heart disease, diabetes, Alzheimers, and more than 70 other chronic diseases and injuries.

Yesterday's decision is expected to be appealed to the California Supreme Court within the 40-day statutory limit. The Supreme Court must then decide within 90 days whether it will accept the case.

“We are extremely confident in the strength of our position,” said Klein. “Our arguments are grounded in more than 100 years of legal precedent. We are convinced that the mandate of the voters will be upheld and that this litigation will conclude by yearend. Patients and families should take heart. We are growing closer to our goal of turning stem cells into therapies and cures.”

“The first years will yield knowledge in how to mitigate the tragic consequences of disease,” Klein continued. “The major breakthroughs will take years of dedicated research and medical trials.”

“Throughout this litigation, we have been ably represented by former Attorney General Bill Lockyer, Attorney General Jerry Brown, and Deputy Attorney General Tamar Pachter,” Klein said. “The efforts of our outside counsel, James Harrison of Remcho, Johansen & Purcell,

and our interim counsel, Scott Tocher, have also been invaluable. And, of course, we've enjoyed the strong support of the many scientists, research institutions, and patient advocate organizations who filed amicus briefs in both the Superior Court and Court of Appeal cases."

About CIRM

Governed by the ICOC, CIRM was established in 2004 with the passage of Proposition 71, the California Stem Cell Research and Cures Act. The statewide ballot measure, which provided \$3 billion in funding for stem cell research at California universities and research institutions, was approved by California voters, and called for the establishment of an entity to make grants and provide loans for stem cell research, research facilities, and other vital research opportunities. For more information, please visit www.cirm.ca.gov.

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